

DIRECT TESTIMONY OF

ROBERT A. LAWYER

ON BEHALF OF

THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF

DOCKET NO. 2019-184-E

IN RE: SOUTH CAROLINA ENERGY FREEDOM ACT (H.3659)

PROCEEDING TO ESTABLISH DOMINION ENERGY SOUTH CAROLINA,

INCORPORATED'S STANDARD OFFER, AVOIDED COST

METHODOLOGIES, FORM CONTRACT POWER PURCHASE

AGREEMENTS, COMMITMENT TO SELL FORMS, AND ANY OTHER

TERMS OR CONDITIONS NECESSARY (INCLUDES SMALL POWER

PRODUCERS AS DEFINED IN 16 UNITED STATES CODE 796, AS

AMENDED) – S.C. CODE ANN. SECTION 58-41-20(A)

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

A. My name is Robert A. Lawyer. My business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the State of South Carolina as a Senior Regulatory Manager in the Utility Rates and Services Division of the Office of Regulatory Staff ("ORS").

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I received my bachelor's degree from Clemson University in 1994. Prior to my employment with ORS, I held a variety of positions in finance, accounting, auditing, and

management. I joined ORS in 2007 as an Auditor and assumed my current position of Senior Regulatory Manager in May 2016.

Q. HAVE YOU TESTIFIED BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA (“COMMISSION”)?

A. Yes. I have testified on numerous occasions before the Commission in matters related to electric utility general rate cases and annual fuel clause proceedings.

Q. WHAT IS THE MISSION OF ORS?

A. ORS represents the public interest, defined by the South Carolina General Assembly as:

[t]he concerns of the using and consuming public with respect to public utility services, regardless of the class of customer, and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to set forth the results of ORS’s examination of Dominion Energy South Carolina, Inc.’s (“DESC” or “Company”) compliance with certain sections of the South Carolina Energy Freedom Act (“Act 62” or the “Act”) and to support any recommendations resulting from ORS’s review of the Company’s filings in this docket.

Q. WAS THE REVIEW PERFORMED BY YOU OR UNDER YOUR SUPERVISION?

A. Yes. The review to which I testify was performed by me or under my supervision.

Q. DID ORS EMPLOY AN EXPERT IN THIS PROCEEDING?

A. Yes. ORS retained Energy and Environmental Economics, Inc. (“E3”) to analyze the Company’s standard offer, avoided cost methodologies, form contract power purchase agreements (“PPAs”), commitment to sell forms, and corresponding terms and conditions. All forms, including terms and conditions, were reviewed for compliance with the Act,

1 regulations and orders promulgated by the Federal Energy Regulatory Commission
2 (“FERC”), the Public Utility Regulatory Policies Act of 1978 (“PURPA”), and industry
3 standards. E3 also examined the Company’s integrated resource plans, avoided capacity
4 and energy cost calculations, variable integration charge, updated value of distributed
5 energy resources (“DER”), and other charges proposed by the Company. Details of these
6 analyses and examinations are contained in the direct testimony of ORS witness Brian
7 Horii.

8 **Q. UNDER ACT 62, WHAT ELEMENTS INFORMED YOUR REVIEW OF THE**
9 **COMPANY’S FILING?**

10 **A.** ORS relied on the requirements provided in Section 58-41-20(A) of Act 62.
11 Specifically, that section states,

12 “[a]ny decisions by the commission shall be just and reasonable to the
13 ratepayers of the electrical utility, in the public interest, consistent with
14 PURPA and the FERC’s implementing regulations and orders, and
15 nondiscriminatory to small power producers; and shall strive to reduce the
16 risk placed on the using and consuming public.”

17 In addition, ORS relied on Section 16 of the Act which states,

18 Notwithstanding another provision of this act, or another provision of law,
19 no costs or expenses incurred nor any payments made by the electric utility
20 in compliance or in accordance with this act must be included in the
21 electrical utility’s rates or otherwise borne by the general body of South
22 Carolina retail customers of the electrical utility without an affirmative
23 finding supported by the preponderance of evidence of record and
24 conclusion in a written order by the Public Service Commission that such
25 expense, cost or payment was reasonable and prudent and made in the best
26 interest of the electrical utility’s general body of customers.

27 **Q. WHAT DOES SECTION 58-41-20(A) OF ACT 62 REQUIRE?**

28 **A.** The Act requires, and the Company’s filing includes, the following items:
29 1) Standard Offer;

- 2) Avoided cost methodologies;
- 3) Form contract PPAs;
- 4) Commitment to sell forms; and
- 5) Other terms or conditions necessary to implement this section of Act 62.

Q. WHAT DOES ACT 62 REQUIRE FOR NON-STANDARD OFFER PPAS?

A. The non-standard offer PPAs are required, at a minimum, to contain provisions, including, but not limited to, force majeure, indemnification, choice of venue, and confidentiality. Additionally, the Company's non-standard offer PPAs contain provisions for various generation technologies and other project-specific characteristics, such as energy storage. The Company's non-standard offer PPA's do not specify any pre-determined contract price or length of contract term.

Q. HOW OFTEN IS THE COMPANY REQUIRED TO UPDATE THE COMPONENTS REQUIRED UNDER SECTION 58-41-20(A)?

A. Section 58-41-20(A) of Act 62 states,
[a]t least once every twenty-four months thereafter, the commission shall approve each electric utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section.
[emphasis added]
Act 62 allows the Commission the flexibility and discretion to determine the actual timeframe.

Q. ON PAGE 7 OF HIS DIRECT TESTIMONY, COMPANY WITNESS FOLSOM DISCUSSES PURPA'S MANDATORY PURCHASE OBLIGATION. WHO PAYS THE COSTS FOR THIS OBLIGATION UNDER PURPA?

1 **A.** PURPA provides Qualified Facilities (“QFs”) the right to interconnect with the
2 Company’s electrical grid and requires the Company to purchase the QF’s energy and
3 capacity at “avoided cost.” The energy and capacity are ultimately paid by all electric
4 customers on an annual basis in the Company’s Fuel Adjustment Clause proceeding under
5 S.C. Code Ann. § 58-27-865. The Company’s customers will pay for the energy and
6 capacity at avoided costs and it is of vital importance that the avoided cost methodologies
7 employed by the Company and the resulting energy and capacity rates fully, fairly, and
8 accurately account for costs avoided or incurred by the utility in accordance with Section
9 58-41-20 (B)(3) of Act 62. ORS witness Horii addresses the avoided cost methodologies
10 and resulting calculations in his direct testimony.

11 **Q. HOW DOES THE VARIABLE INTEGRATION CHARGE (“VIC”) PROPOSED**
12 **BY THE COMPANY IMPACT CUSTOMERS?**

13 **A.** The Company’s proposed VIC represents the Company’s efforts to account for the
14 costs of additional ancillary services incurred by the Company to safely and reliably
15 integrate additional solar generation onto their electric system. The proposed VIC is
16 designed to assign costs to the QFs that cause the Company to incur the costs to integrate
17 solar generation. This rate design minimizes the risk to the Company’s customers by
18 directly assigning integration costs to the QF. Section 58-41-20(B)(3) of Act 62 requires
19 that these ancillary costs be accounted for in the avoided cost methodologies employed by
20 the Company. One of the challenges in setting a fair and balanced VIC is to establish a rate
21 that benefits the Company’s customers by limiting the risk of subsidization, yet expands
22 private investment in solar development. Details regarding the Company’s proposed VIC,

and its application in this docket, are contained in the direct testimony of ORS witness Horii.

Q. DO YOU AGREE WITH DESC'S PROPOSED IMPLEMENTATION OF THE "TRUE UP" AS OUTLINED IN THE DIRECT TESTIMONY OF COMPANY WITNESS ROOKS (P. 10)?

A. Yes. In DESC's 2019 annual fuel proceeding (Docket No. 2019-2-E), certain issues were bifurcated and held in abeyance pursuant to Commission Order No. 2019-43-H, issued April 1, 2019. The bifurcated issues included avoided cost rates for Rates PR-1 and PR-2, the Value of DER, and consideration of proposed variable integration charges. Order No. 2019-43-H expressly states,

When the Commission holds the appropriate hearing to consider updates to the PR-1, PR-2, Net Energy Metering rates, and consideration of Variable Integration Charges, then those updated rates will be subject to a 'true up'.

The 2020 fuel proceeding, Docket No. 2020-2-E, is the most appropriate proceeding for DESC to implement the "true up" of avoided energy and capacity, VIC, and Value of DER rates. The Company proposes an effective date for the rate changes of the first billing cycle of May 2019. The "true up" will be reflected as an adjustment to fuel rates that will go into effect with the first billing cycle of May 2020.

Q. WHAT DOES DESC INTEND TO DO WITH RATE PR-2?

A. Act 62 requires a Standard Offer for QFs up to 2 MW and standard form PPA for those QFs that do not qualify for the Standard Offer, or in other words, are greater than 2 MW. As such, the Company has proposed a standard form PPA to accommodate QFs larger than 2 MW. Therefore, ORS concurs with DESC that Rate PR-2 is no longer necessary and should be terminated.

**Q. PLEASE EXPLAIN ORS'S CONCERNS WITH THE VARIOUS RATE PR
TARIFFS PROVIDED BY COMPANY WITNESS ROOKS.**

A. ORS reviewed the Rate PR tariffs attached as Exhibits to Company witness Rooks' direct testimony and identified the following concerns:

1) Rate PR-1 and Rate PR-Standard Offer (Rooks Exhibit Nos.__(AWR-1) and (AWR-6) Section labeled "Limiting Provisions":

The "Limiting Provisions" section of the Rate PR-1 tariff states, "*Company shall not be liable for purchase of electricity from Qualifying Facility until such facility and Company have executed an Agreement for Purchase of Power from Small Power Production facility or Cogeneration Facility.*" The "Limiting Provisions" section of the Rate PR-Standard Offer tariff states, "*The Company shall not be liable for purchase of electricity from a QF until such facility and Company have executed a PPA.*"

ORS recommends the Company add language to clarify the effects of an executed Legally Enforceable Obligation ("LEO") on these statements, as discussed by Company witness Folsom in his direct testimony (pp. 20-22).

2) Rate PR- Avoided Cost Methodology (Rooks exhibit No.__(AWR-5) Section C - Updates:

The Section C, Updates states, "*The Company may update these factors and analyses from time to time as more current information and data become available.*"

ORS recommends the Company add the following language:

1 “Any updates to the factors or analysis must be approved by the Public Service
2 Commission of South Carolina.” The Company’s avoided cost methodology may not be
3 updated without prior Commission approval pursuant to Section 58-41-20(A) of Act 62.
4 The review of all other form contract PPAs, commitment to sell forms, and other terms and
5 conditions are contained in the direct testimony of ORS witness Horii.

6 **Q. DOES ORS HAVE ANY ADDITIONAL RECOMMENDATIONS REGARDING**
7 **THE COMPANY’S FILING?**

8 **A.** Yes. ORS’s additional recommendations are provided in ORS witness Horii’s
9 testimony. The ORS recommendations are just and reasonable to the customers of the
10 Company, consistent with PURPA and the FERC’s implementing regulations and orders,
11 non-discriminatory to QFs, and reduce the risk placed on the using and consuming public.

12 **Q. WILL YOU UPDATE YOUR TESTIMONY BASED ON INFORMATION THAT**
13 **BECOMES AVAILABLE?**

14 **A.** Yes. ORS reserves the right to revise its recommendations via supplemental
15 testimony should new information not previously provided by the Company, or other
16 sources, becomes available.

17 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

18 **A.** Yes.